

Senate File 449

H-1248

Amend the amendment, H-1188, to Senate File 449, as passed by the Senate, as follows:

1. Page 1, line 26, by striking <that> and inserting <located in a county with a population of greater than nine thousand two hundred fifty but less than nine thousand three hundred, according to the 2010 federal decennial census, which property>

2. Page 2, by striking lines 6 through 26 and inserting:

<Sec. \_\_\_\_\_. Section 6A.22, subsection 2, paragraph c, subparagraph (1), Code 2015, is amended by adding the following new subparagraph division:

NEW SUBPARAGRAPH DIVISION. (0b) For condemnation of property located in a county with a population of greater than nine thousand two hundred fifty but less than nine thousand three hundred, according to the 2010 federal decennial census, prior to making a determination that development or creation of a lake as a surface drinking water source is reasonable and necessary, the acquiring agency shall conduct a review of feasible alternatives to development or creation of a lake as a surface drinking water source. An acquiring agency shall not have the authority to condemn private property for the development or creation of a lake as a surface drinking water source if one or more feasible alternatives to provision of a drinking water source exist. An alternative that results in the physical expansion of an existing drinking water source is presumed to be a feasible alternative to development or creation of a lake as a surface drinking water source. An alternative that supplies drinking water by pipeline or other method of transportation or transmission from an existing source located within or outside this state at a reasonable cost is a feasible alternative to development or creation of a lake as a surface drinking water source. If private property is to be condemned for development or creation of a lake, only that number of acres justified as necessary for a surface drinking water source, and not otherwise acquired, may be condemned. Development or creation of a lake as a surface drinking water source includes all of the following:

(i) Construction of the dam, including sites for suitable borrow material and the auxiliary spillway.

(ii) The water supply pool.

(iii) The sediment pool.

(iv) The flood control pool.

(v) The floodwater retarding pool.

(vi) The surrounding area upstream of the dam no higher in elevation than the top of the dam's

1 elevation.

2 (vii) The appropriate setback distance required  
3 by state or federal laws and regulations to protect  
4 drinking water supply.>

5 3. Page 2, before line 27 by inserting:

6 <Sec. \_\_\_\_\_. Section 6A.24, subsection 3, Code 2015,  
7 is amended to read as follows:

8 3. For any action brought under this section,  
9 the burden of proof shall be on the acquiring agency  
10 to prove by a preponderance of the evidence that  
11 the finding of public use, public purpose, or public  
12 improvement meets the definition of those terms.  
13 However, for any action brought under this section  
14 that involves property described in section 6A.22,  
15 subsection 2, paragraph "c", subparagraph (1),  
16 subparagraph division (0b), the burden of proof shall  
17 be on the acquiring agency to prove by clear and  
18 convincing evidence that no feasible alternatives  
19 to provision of a drinking water source exist. If a  
20 property owner or a contract purchaser of record or a  
21 tenant occupying the property under a recorded lease  
22 prevails in an action brought under this section, the  
23 acquiring agency shall be required to pay the costs,  
24 including reasonable attorney fees, of the adverse  
25 party.>

26 4. Page 2, line 48, after <subparagraph (1),> by  
27 inserting <subparagraph division (0b),>

28 5. By renumbering as necessary.

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KAUFMANN of Cedar